

ADEPT
Legal Commentaries

October 2002

Parliament Activity Review September 30 - October 4, 2002

October 7, 2002

Two important events took place in October. On the one hand European Union established the terms for candidate countries to join EU and on the other hand CIS summit held in Chisinau. The Parliament took an active part in the preparation of the Summit and examined a series of legislative acts related to CIS activity in general and collaboration between the member states. A more detailed review of the said acts is provided below:

Acts adopted in the final reading

I). Law on annulment of some reserves with regard to the Agreement on CIS Establishment

ADEPT comment: In 1994, when the Republic of Moldova ratified the Agreement on CIS Establishment and became a full-right member of the Community of Independent States, several reserves with regard to the aforesaid international treaty were formulated. On the eve of the CIS Summit President of the Republic of Moldova recommended to annul the reserves the country had with regard to coordination between the member states of foreign policy and migration policy.

The said annulment has no legal effect and is rather a declarative aimed to prove once again Republic of Moldova's commitment to cooperate with the rest of the countries members of the CIS. And this only two weeks after the President and Chair of the Parliament launched the initiative of establishing a Special Commission to deal with EU integration.

II). Law on Ratifying the Agreement on Energy Transit in CIS

ADEPT comment: The Agreement regulates the electricity transit on the soil of member state, regardless of its origin, destination or own under a fee established in separate agreements. Also, the Agreement obliges parties to ensure that no other party to the Agreement runs the risk of being disconnected from the energetic sources. One of the arguments in favor of ratification was the possibility of reducing the en-gross price on energy, however it remains to be seen whether this would happen.

III). Law on Ratification of the Agreement on the CIS Interstate Meteorology Network

ADEPT comment: The Agreement regulates the cooperation between the parties in ensuring the activity of the interstate meteorology network, namely: observing meteorology conditions; developing the strategy in the field; legal, methodological and technical provision of the network. Also the agreement provides for the establishment of the CIS Interstate Meteorological Committee.

IV). Law on high-tech information

For more details see the Legislative Commentary of [July 1-5, 2002](#).

V). Resolution on approving the state policy on medicines

ADEPT comment: The following are the main objectives of the policy:

- Providing effective, harmless, quality and accessible medicine;
- Rational use of medications;
- Ensuring access to basic medication to all the citizens of the country.

The policy is intended to:

- Guarantee populations access to medications;
- Consolidate state pharmaceutical system;
- Population protection measures;
- Modernize and boosting domestic pharmaceutical industry;
- Efficient measures of pharmacist professional training.

Legal acts adopted in the first reading (not final)

It is worth mentioning two draft laws:

- I. Draft law on Ratification of CIS Agreement on parallel functioning of electrical systems in the member states.**
- II. Draft law on modification and completion of the Law on sanitary and epidemiological protection of the population.**

Parliament Activity Review October 7-11, 2002

October 14, 2002

The Summit of the Commonwealth of Independent States (CIS) held in Chisinau was the most important event of the last week. Regardless of the views on the Summit results one thing is clear the friendship between President Voronin and President Putin is not so strong now. Despite their efforts Moldovan authorities failed to gain Russia on its side in settling Transdnistrian conflict. On the contrary, Vladimir Putin stated that Tiraspol regime was not criminal as claimed earlier on Vladimir Voronin. Furthermore, recently Russian Federation State Duma initiated the procedures of opening a Consulate in Tiraspol. The situation gets even more complicated and overturns are to be expected in the near future.

Another outcome of the Chisinau Summit is that President Putin took under his protection Ukrainian President Leonid Kucima, facing problems both on domestic and international political scene. In the recent years Kucima was supporting breakaway Tiraspol regime and that is why Chisinau authorities should be alerted by Putin's suggestion Ukraine to take over CIS presidency.

In the time period covered by the commentary the Parliament continued to ratify treaties previously concluded within CIS.

Legislative acts adopted in the final reading

I. Laws on ratifying CIS agreements.

1. Cooperative agreement on settling the problems of disabled.

ADEPT Comment: The Agreement provides for: creating a friendly environment to the disabled; single standards for disabled rehabilitation; improving the statistics of the disabled people, etc.

Noteworthy, Republic of Moldova ratified the agreement but formulated the reserves it had with regard to Article 1, which would be applied "in line with the national laws". Experts claim the latter partially annuls the Agreement, as Article 1 provides that parties to the Agreement undertake to promote a coordinated policy on social-medical expertise, rehabilitation of the disabled, granting them equal rights to take part in the public life.

2. Agreement on paying pensions and state insurance to the employees of the Forces Ministries of the CIS countries.

ADEPT Comment: Under the agreement member states are obliged to estimate in line with their domestic laws and pay the pensions to the employees of the Forces Ministries who settled in the country.

3. Agreement on CIS Member States cooperation during evacuation of their citizens from the third countries in exceptional circumstances.

ADEPT Comment: Under the Agreement a joint evacuation commission shall be set up to coordinate the evacuation plan. In exceptional cases one or more parties shall undertake the leadership and allot financial and material resources for the evacuation, which are to be later reimbursed by the other parties.

4. Agreements on fairs and exhibitions within CIS.

ADEPT Comment: Under the Agreement the parties will establish a permanent council on CIS fairs and exhibitions with the headquarters in Moscow. A suggestion to establish a permanent exhibit of the CIS Member States at the Moscow Exhibition Complex was voiced during the CIS Summit, however the Russian part refrained from endorsing the initiative justifying by the need to conduct some preliminary estimates and draft relevant normative acts.

II. Law on requisition of goods and service in the public interest.

ADEPT Comment: The law stipulates the methods for the state to requisition from legal and natural entities real and personal estate. The law also regulates provision of services for the public good, namely recruiting certain categories of population to conduct certain works or to defend the country. Requisitioned goods shall be allocated to the national defense forces or to local government. Consumable goods shall be requisitioned for good and compensation established by law shall be paid. The law provides the types of goods subject to requisition, record keeping, compensation, etc. The law also specifies the goods, which may not be requisitioned.

III. Law on modification and completion of the Law on Supreme Court of Justice.

ADEPT Comment: Under the law, a new position Deputy Chairperson of the Court has been established. Deputy Chairpersons will simultaneously hold the position of Chairpersons of the Penal, Civil and Economic Bars.

IV. Law on the ratification of the Cartagena Protocol on biological diversity.

ADEPT Comment: The Protocol sets norms and procedures allowing importing states to oversee import and export of biologically modified organisms.

V. Resolution on approving the Concept of Migration Policy.

ADEPT Comment: The Concept specifies:

- a. objectives of the migration policy;
 - b. principles of migration policy;
 - c. tasks of the migration policy;
 - d. policy priorities;
 - e. policy enforcement;
 - f. expected outcomes.
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VI. Resolution on overseeing the enforcement of the Law on minimal free medical assistance guaranteed by the state.

ADEPT Comment: The Resolution highlights flaws in the enforcement of the law and obliges the Government, Healthcare Ministry and local government to take measures in view of:

- developing and promoting long-term healthcare strategies;
 - obligatory state medical insurance;
 - revising the fees for the communal services paid by the medical institutions;
 - strict recording of the extra-budgetary funds accrued from the paid medical services;
 - information campaign of the population with regard to free medical assistance.
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Other legal acts examined in the first (not final) reading

I. Draft law on completing the Law on state regulation of the external commercial activity.

ADEPT Comment: The law is completed so as to establish a fund for promoting exports, which is to be administered by a central public body. The fund shall coordinate foreign commercial activities.

II. Draft law on military material responsibility.

ADEPT Comment: The law sets the penalties to be paid for damaging the patrimony of the military unit.

Parliament Activity Review October 14-18, 2002

October 21, 2002

During the time period covered in the commentary the Parliament convened on two brief sessions to examine several draft laws. It seems that the deputies are saving their forces for the upcoming hearing on the draft budget for 2003, which always is accompanied by hot debates. A list of legal acts examined by the Parliament is provided below.

Legal acts adopted in the final reading

I. Law on the Ratification of Acts on Eurobonds Restructuring.

ADEPT comment: In 1997 the Government issued eurobonds worth 75 million USD at a 10% interest rate and a settling day in June 2002, time at which they were due to be repurchased by the Republic of Moldova. Due to a shortage of money, Republic of Moldova authorities commenced the negotiations with eurobonds holders in view of postponing the repurchase to November 2002. Republic of Moldova managed to negotiate the payment restructuring for 7 years and a decrease of interest rate to 6%. The deal is viewed as a very advantageous for Moldova, which thus avoided insolvency and a poorer international rating.

II. Law on the Modification and Completion of the Law on Normative Price and Land Sale and Purchase.

ADEPT comment: Under the law, the plots nearby privatized units shall be rented at a price ranging between 2% to 10% of the normative price. The law also extends until January 1, 2005 the right of the owners to decrease the normative price of land nearby privatized units, so as the land could be privatized at a lower price.

Legal acts examined and adopted in the first reading (not final)

I. Draft law on finger print registration.

ADEPT comment: The law provides the goals, principles, types and criteria for finger print registration. Finger print registration shall be obligatory for several categories of population:

- a. citizens who work in the Forces Ministries;
- b. members of plane crews;
- c. drivers;
- d. citizens working abroad;
- e. persons under investigation, convicted and those under administrative arrest;
- f. foreign citizens and asylum seekers;
- g. unidentified bodies.

The draft law also allows for voluntary finger print recording. Also the draft provides a series of requirements with regard to record keeping, storage and use of the finger print information, right to access and use the said information. Certain experts claim the provisions are incomplete and do not fully guarantee citizens' right to individual freedom and non-interference his/her private life.

The said issue has been extensively debated in various countries, including France and US. The state argues for the need to ensure state security, fight terrorism and protect citizens' rights, whereas human rights activists argue that the aforesaid actions would precisely abridge citizens' rights. Another argument against the said registration system is that the data may be later used by the special services to blackmail public figures, etc.

Given the aforesaid, we shall monitor the way Moldova public opinion and civil society reacts to the said draft law.

II. Draft law on distribution of copies of literary works and phonograms.

ADEPT comment: The law is aimed to protect copyright, fight audiovisual piracy and illegal distribution of literary works and phonograms. This shall be achieved by obliging distributors of audiovisual materials,

databases, software and phonograms to get registered with the State Copyright Agency and receive a control sign. Furthermore, the law sets several requirements for distribution, namely:

- a. each package of the literary work or phonogram shall include the control sign and information on the copyright;
- b. distributor will possess a registration certificate proving the award of control signs;
- c. distributor will possess a contract providing for the distribution of the works of art and phonograms according to the procedure established by the Agency, etc.

Experts welcomed and praised the draft law, as responding to the general tendency in the region. Furthermore, clear-cut provisions would allow Republic of Moldova to avoid international litigation. On the contrary, opponents of the draft law believe that the binding purchase of control sign would inevitably lead to the increase of the product price and thus affect the ordinary citizen purchasing it.

The Parliament is to decide which of the two positions is more grounded and is more relevant to the state policy in the field.

III. Draft law on the modification of legal acts related to the detainee's mail.

ADEPT comment: The draft law prohibits censure of the detainee's correspondence with national or international institutions protecting human rights and freedoms.

The opponents of the modification claim that according to the Constitution provisions prohibiting any kind of censure, no mail in general should be read or censored. The supporters of the modification claim that Article 54 of the Constitution allows restricting citizen's right to secrecy of correspondence, provided state and society interests are at stake. The latter also argue that detainees are not entirely deprived of the said right, once detention period expires they may fully enjoy the said right.

Parliament Activity Review October 21-25, 2002

October 28, 2002

Last week the Parliament proceeded to the examination of the draft law on the state budget for the year 2003 and draft laws amending or completing the legal acts enforcing the state budget for the next year. Other legal acts are presented as follows.

Legal acts adopted in the final reading

I. Law on Public Services and Communal Husbandry.

ADEPT comment: The relevant law establishes a single and unitary legal framework regulating the set up and operation of communal husbandry entities in administrative-territorial units, overseeing and control over their activities. The Law includes provisions on: types of communal husbandry public services; set up and operation of the public services; right to benefit of the services provided; funding and investments; responsibilities of the local public administration with regard to communal husbandry services, etc.

The main goal of the draft law is to establish an order in the field, as the relevant sector wasn't adequate and appropriate to the needs of the time, thus communal husbandry was first decentralized, however its normal functioning wasn't ensured. Upon enforcement the law will allow the development of communal infrastructure and locality planning.

The draft law was significantly improved as compared to the draft adopted in the first reading. However, the greatest challenge is the enforcement of the law since there is no order in the field and the reconstruction is very expensive and very few communities could afford it.

II. Law on Ratification of World Labor Organization Conventions.

ADEPT comment: Under the law the following Conventions were ratified: 1. WLO Convention on the agriculture workers' right to for associate in coalitions; 2. WLO Convention on estimating the minimal wage in agriculture; 3. WLO Convention on paid vacations for agriculture workers; 4. WLO Convention on work security; 5. WLO Convention on rural workers organizations and their role in economic and social development.

III. Resolution on priority fields of scientific research in 2003 - 2010.

ADEPT comment: The following are the top priorities of research in the next seven years:

- a. Mathematics, real science, technical, social and humanity studies;
- b. Anthropology and health;
- c. Socio-economic development through innovation and know-how;
- d. High-tech;
- e. Energy systems, alternative energy sources, efficient use of energy sources;
- f. IT, communications;
- g. Ecosystems, bio-diversity, rational use of natural resources;
- h. Historic and cultural patrimony.

Under the resolution only the aforesaid priorities shall be funded. Experts claim this may result in lack of funds allotted to other fields of science, which in its turn could lead to a regression of those fields of study.

IV. Law on completing Article 20 of the Fiscal Code.

ADEPT comment: The amendment exempts farms of the 5% income tax due on the income accrued from participation in the opinion polls conducted by the statistic bodies.

Legal acts examined and adopted in the first reading (not final)

Two of the legal acts adopted in the first reading are of major importance, namely:

I. Draft law on the state budget for year 2003.

ADEPT comment: The Parliament adopted in the second reading the concept of the state budget for the next year. The major budget lines are as follows:

- Revenues - 39,996 million Lei;
- Expenditures - 42,006 million Lei;
- Deficit - 201 million Lei.

Later on, each budget items shall be considered separately. Then it would be clear which organization was more successful in lobbying its interests.

II. Draft law on modification and completion of legal acts related to the enforcement of the Law on State Budget for Year 2003.

ADEPT comment: Under the draft passed in the first reading more than 20 legal acts are to be amended, namely: Code on Administrative Offence; Law on Police, Law on Entrepreneurship and Enterprises; Law on Rent; Law on Education, Law on Road Fund; Law on Penitentiary System; Law on Joint Stock Ventures; Customs Code, Fiscal Code, etc.

The modifications refer to introduction of provisions in the said laws, which previously were included in the Law on State Budget, as well as to the exclusion of provisions on budget lines not to be covered, or covered from different sources in the next year.